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CONSERVATION COMMISSION MEETING MINUTES

March 27, 2008

Beginning at 7:30 p.m.

Room 209, City Hall

MEMBERS PRESENT: I. Wallach, Chair, N. Richardson, S. Lunin, Dan Green; Associate: J. Hepburn; R. Matthews arrived at end of first hearing.

MEMBERS ABSENT: D. Dickson,

MEMBERS OF THE PUBLIC: See attached sign-in sheet

32 Williams Street – NOI for demolition of existing house and construction of a two-family house in the 100 ft buffer zone to bordering vegetated wetland and in the 200 riverfront to the Charles- continued from Nov. 15.

Report: This project has been on the agenda for 4 months with no new information, and the application is not signed by the owner. Mr. Robart is purchasing the property, but have no documentation that the transaction is complete and the proposal as submitted does not meet the interests under the WPA nor satisfy engineering. The Commission may want to suggest the applicant withdraw, without prejudice, or else give him a deadline to show ownership and bring in a new proposal that can meet the interests of the WPA and respond to engineering's comments.

Meeting: The applicant is still trying to buy the property that is in probate. The applicant has requested to continue for another month. Motion by S. Lunin to deny OOC without prejudice and advise applicant to re-apply when he owns property. Second by N. Richardson. Vote: 3 ayes – S. Lunin, N. Richardson, and I. Wallach(?); D. Green voted "nay." Vote does not carry. Hearing is continued until April 24th.

32 Olde Field Rd- NOI for addition to single family house, widening of driveway, and related site grading in the 200 ft riverfront area and the 100 ft buffer to bank of Paul Brook – continued for file number.

Report: At the last meeting the Commission only had jurisdiction over the construction of a dry well in the buffer to bank, and the standard conditions seemed appropriate. No vote taken pending issue by DEP of a file number. File number has been issued with no comments.

Meeting: Motion by D.Green to approve project with the standard conditions. Second by S. Lunin. Vote: all approved.

131 Brandeis Road – NOI for proposed addition & basement addition & deck to house within 100 ft buffer zone and within 35 ft of bordering vegetated wetland.

Conservation Commission

1000 Commonwealth Avenue, Newton, Massachusetts 02459

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Report: The bordering vegetated wetland here historically bordered South Meadow Brook, Paul Brook, and tributaries to both of these, though there is no longer any surface flow in this BVW. The proposed work will require removal of 12" diameter tree on West(?) side of property at corner of proposed new deck, AND if haybales and silt fence are to be entrenched as shown on the plan, roots of 30" tree by swingset will be destroyed. In fact, no way to entrench E&SC around this tree – Filtrex Filter soxx or alternative product should be used.

Meeting: Co-Owner, Reza Khorshidi, was present and described the proposed project. Staff reported a new plan received from 3-26/27, showing changes in E&SC, & no stockpiling. The applicant is working very close to a slope and wetlands. One tree must be removed, and, if contractor not very careful, could lose 2nd tree – (30" diameter oak) roots on surface and if drive over them will damage tree. Staff would like to see vegetated buffer between house & slope to wetland, using native species of woody plants. Chair. I. Wallach noted the Commission has a policy that new plans be submitted to staff by noon on the Tuesday prior to the meeting to be considered by the Commission. Commission suggested applicant submit plan for plantings and asked if applicant would agree to continue to April 24th meeting. Applicant agreed.

27 Selwyn Rd – NOI for addition, porch, & deck in flood zone, with compensatory storage. Entire lot in land subject to flooding (from South Meadow Brook).

Report: Engineering is requesting additional information (proposed elevation of first floor, to ensure it is above flood zone). Owner proposes compensatory storage at back of lot for area occupied by sonotubes to support new construction.

Meeting: Owner Gutman Keyser and Mr. Srinivasa, engineer from Kalkunte Engineering presented proposal, with grading at back of lot to provide compensatory storage required. Letter from abutter Mr. Mark Greenbaum, concerned with flooding on his property, is read into the record. File number received and abutter notification receipts submitted. Engineering requested plan show the elevation of the bottom of the living space of the new construction. New plan received 3-27-2008.

Motion by D. Green to issue OOC with standard conditions. Second by R. Matthews. Vote: All in favor. Motion passed.

1208 & 1211 Washington St – Amended NOI to modify storm water management on site from infiltration to treatment with Stormceptor and discharge to Cheesecake Brook via rip-rap apron.

Report: Preliminary comments from engineering that stormceptor connection to pipe is not optimum, but still do not have final comments, nor feedback on rip-rap for scouring and whether DPW can keep the stream clear and work around this. Plan developed by EcoTec for amended OOC to address EO directive (also includes other changes)

1. Applicant is seeking to "make a plan change to allow parking lot runoff to be managed in a different manner than was approved under the Corrected Order of Conditions" – to use stormceptor to treat surface run-off instead of infiltrating storm water on site. Two (2) other drainage pipes from Mr. Donato's building and exiting at the bank of the stream have been exposed by the excavation to date – staff has requested to know definitively what those pipes carry (see picture).
2. That DPW will provide rip-rap for top of City wall, but Mr. Donato's contractor will place the rip-rap – if allowed, the contractor should be required to place rip-rap "by hand" as City was directed to originally
3. Planting plan detailed (have asked for diameter of shrubs). And, since plan says shrubs will be inspected after 2 years, OOC should specify non COC until sign-off on shrubs(?).
4. Proposal for placement of stones for habitat for invertebrates means that if City uses excavator to clean stream it will destroy created "habitat." Need written acknowledgement/acceptance from DPW that excavator will not be used, else City must replace "habitat" "under direction of qualified wetland scientist."

Meeting: John Rockwood of EcoTec, Inc. was present to represent the owner. Mr. Rockwood reviewed the sequence of events at the site leading to the present. He noted that 21 cy of contaminated soil (urban fill) was

removed from the site, but more remains, so that it is not appropriate to infiltrate storm water. A stormceptor (or similar BMP) is proposed, with direct discharge into the brook, and it will need maintenance. In connection with the placement of rip-rap to prevent erosion, clusters of stones to trap and hold leaves will be placed against the sides of the channel (50 clusters) to provide habitat for invertebrates. EcoTec has been trying to get memo from DPW approving this plan. New plan submitted March 26th, showing riverfront, and with cover sheet from VTP associates responding to engineering comments and noting changes to plan. Commissioner of Public Works Tom Daley was present and asked questions about the history of the project. Chair I. Wallach asked about pipes uncovered when excavation begun. Mr. Rockwood said the pipes are not owned by Mr. Steve Donato. Will rip-rap be placed by hand by EcoTec? Mr. Rockwood said “yes.” Commission asked for details on shrub size and requires 2 years for shrubs (2 full growing seasons from time of planting) before issuance of COC.

Motion by R. Matthews to approve with noted conditions. Second by D. Green. Vote: All in favor. Motion passed.

149 Pleasant St (Mason Rice Elementary) – Request for Determination for redevelopment in riverfront of Hammond Brook to install 1,000 sf addition to school (modular classroom and connecting vestibule), excavating for frost wall, and displacing 500 sf of grass, 500 sf pavement, & removing 1 tree.

Report: Proposed work is between two walkways extending out from doorways and surrounded by asphalt parking lot. Erosion and sediment control (silt fence & haybales) should not be necessary, unless applicant proposes to stockpile excavated soil, or create other piles of materials that can erode. Storm drain near stream should be equipped with silt sac (cleaned after any rainfall of 1” or more).

Meeting: Steven Watchorn and Gene Raymond of Raymond Design Associates, Inc., and Nick Parnell, Newton Commissioner of Public Buildings were present to represent the proposal. There is a short time frame to get the temporary buildings installed – they need to be on site and ready by September. New plan submitted 3-27-08 showing details of E&SC, new permeable area to be created, with more square footage than the area of new impermeable area, and a proposal to plant 2 maple trees as compensation for tree removed. S. Lunin thinks that proposed maple trees too close to the school “garden” and suggested consulting with staff to consider alternate plant species. Since applicant did not file NOI, plans should be stamped and serve as documentation of mitigating measures that allow Commission to issue negative determination.

Motion by R. Matthews to issue negative determination. Motion seconded by S. Lunin. Vote: All in favor. Motion passed.

Violations

160 Pine St – Site visit with Alderman Sangiolo, condo manager, Michael Conley, DPW Water & Sewer Supervisor, Ted Jerdee, Candace Havens, Chief Planner, Frank Nichols, Engineering, and various condo residents at 160 Pine Street to discuss issues related to retaining wall. MEMO and picture in packet. All 3 options in the memo involve moving the wall out of the city’s sewer easement, although DPW could try to access the sewer easement by removing a section of the wall from the front, to gain access sooner rather than waiting until after all the work is done on the wall. Staff has received no new material from the condo association since the on-site meeting, although Mr. Conley indicated he would respond quickly.

Meeting: Ms. Barnette Shuman and Kay Tobin, Trustees of the Condominium Association were present to discuss the issue. Mr. Conley (property manager) was not present but sent letter to include in file. Resource area(s) include Brunnen Brook (bank), bordering vegetated wetland and flood zone. New Commissioner of DPW Tom Daley be present and said records had been checked and no indication the city approved construction of wall on city’s sewer easement and over manhole. Alderman Sangiolo would like the city to help out the residents. Commissioner Daley said the city does not want to incur liability for wall by doing tear down and city cannot help pay for work.

Project could have been referred to Law Department, because of trespass on city easement, but, eventually, to move the wall, owners would still have to file with Conservation. CC approved the condo development, but

OOO appealed and superceding OOC issued by DEP, based on same plan. Plan shows smaller wall, in different place, not in easement. We do not know when the wall was built (before or after COC issued), but no evidence that OOC ever issued for wall where it is. Thus, it is violation of WPA. CC can refer to Law Department to address trespass of city easement, or can issue Enforcement Order and require owners to file NOI to maintain or move wall.

Motion by R. Matthews to issue EO with 90 days to file NOI for wall. Second by D. Green. Discussion of period needed to prepare plans for NOI ensued. R. Matthews modified motion from 90 days to 60 days.

Vote: All in favor. Motion passed.

3 Fuller Avenue – Owners had a vegetable garden on the edge of/within bordering vegetated wetland and had planted non-natives (hosta, etc.) along the bank of a stream on their property. When the OOC was issued to demolish the house (beginning of August, 2007), the applicant told the Commission they were trying to acquire the adjacent property (through adverse possession), and applicant agreed to contact the Commission w/in 6 months, or when mitigation work began. Six months has lapsed and I contacted the Russo's. They report the property abandoned (by the Archdiocese) and they seem to have little hope to get title – I am not sure from our conversation that they are still pursuing it. Does the Commission have any direction on this issue?

Meeting: Commission has no direction at this time. Leave on agenda.

1203&1211 Washington- proposed amendment on agenda

93 Andrew St – nothing new

394 Boylston St. – nothing new

15 Harwich Rd-contractor working with engineering for necessary permits and work

2345 Commonwealth - Marriott Hotel– work begun on retaining wall and addition w/building permits but not CC review in riverfront. Owner is cooperating & brought this to Anne. She will do site visit and owner will submit filing for next meeting. Nor further work (excavation or fill) until an Order of Conditions is issued. Work also may include 3 ft grade change behind retaining wall, so applicant should check to see if Planning approval is needed.

Certificates of Compliance

212 Kenrick– Commonwealth Golf Course – repair/replacement of irrigation system – Awaiting (corrected) engineer-stamped or surveyor-stamped as-built

19 Phillips Lane –Addition, decks and terrace in riverfront and (a portion) in flood zone to laundry Brook, with compensatory storage, mitigation planting strip, and on-going conditions.

Report: OOC issued 3-6-2003 and now expired. Two on-going conditions: 1) No pesticides or herbicides and slow-release fertilizers; 2) Infiltration system to be checked annually (or more often if needed). System has not been checked. Staff requested owner consult with his engineer.

Meeting: Await report re infiltration system.

Announcements & General Business: (*Needs action)

***Supervalu/Shaw's Div.** – Requesting to know whether to file with CC (RDA) for de-watering on site, with small amounts of heavy metals in water to pipe to Hammond Pond.

Report: They filed NOI w/EPA for a Remediation General Permit for de-watering in connection with excavation to construct new building. Soil borings show small amounts of heavy metals in ground water, which will be going into storm water pipe to Hammond Pond—their NOI not approved by EPA yet. Applicant filed and received negative Determination of Applicability from the Commission for connection to storm water pipe to receive roof runoff (and some treated surface runoff). Staff advised a new RDA because this is a new contribution to the pipe not approved under the prior Determination (groundwater, with something more than trace amounts of heavy metals) to the pipe going to the Pond). The CC might require agent to check installation of filtration methods approved by EPA (EPA does not go into the field and check).

Meeting: Jen Viarengo of McPhail Associates, Inc. present to represent owners. Anne has been reviewing NOI submitted to DEP/EPA for Remediation General Permit & researching whether Shaw's should file RDA to proceed. If all construction is out of CC jurisdiction, and NPDES permit will be obtained prior to start of

construction & discharge, then 310 CMR 10.03(4) applies. Presumption is that if NPDES permit received prior to point source discharge, and applicant meets discharge limitations, applicant is presumed to meet the interests under the Act. After reviewing the NOI, Anne said she had suggested to DEP & EPA that the correct receiving body was Hammond Pond, a “Great Pond” listed by DEP, not the Charles River. And the correct dilution rate should be “0.” Anne asked Ms. Viarengo to provide copy of RPG when it is received by Shaw’s.

Norumbega Fence

Report: Mr. Ed Rocco, General Manager, and Staff have agreed for now to repair fence (pull back up where knocked down by snow plowing) and make sure landscapers for Marriott have clear directions re lawn clippings, and other maintenance (i.e., no dumping in Park).

MACC Spring Conference & Storm water seminar in Boston – Staff will summarize new Storm Water Regs for next meeting.

***February 28, 2008 Meeting Minutes for approval – Motion by N. Richardson to approve minutes of last meeting. Second by R. Matthews. Vote: All in favor. Motion passed.**

Non-criminal ticketing - report
Outstanding issues – discussion

Discussion regarding wording for request of Certificate of Compliance, that engineer or surveyor certify that work is “in significant compliance” with the OOC. I. Wallach asked whether the CC should be more explicit about the wording to make it clear there is a “presumption” that work is in compliance? We rely on the accuracy of the representations of engineers who sign the letter that certifies the project has met the specifications of the OOC. No specific direction.

Motion by R. Matthews to adjourn. Second by D. Green. Vote: All in favor. Meeting adjourned approximately 10:55 pm.

Anne Phelps, Sr. Environmental Planner